

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In Re: :
Denise M West White : Case No. 10-64129
:
SSN: XXX-XX-8077 :
:
Debtor : A.P. No. 2:11-ap-02144
: :
: Judge CALDWELL

:
Denise M West White :
2849 Ambarwent Road :
Reynoldsburg, OH 43068 :
Plaintiff, :
v.
US Bank Home Mortgage :
4801 Frederica Street :
Owensboro, KY 42301 :
Defendant. :

**MOTION FOR DEFAULT JUDGMENT ON COMPLAINT UNDER §506 and §1322(b)(2)
OF THE BANKRUPTCY CODE TO AVOID A WHOLLY UNSECURED MORTGAGE**

The Plaintiff, Denise M West White RESPECTFULLY MOVES THE Court for judgment on the Complaint filed under §506 and §1322(b)(2) of the Bankruptcy Code to Avoid a Wholly Unsecured Mortgage. Support for the Motion is set forth below.

Respectfully submitted,

/s/ Thomas M .Fesenmyer
Thomas M. Fesenmyer, (0073901)
Attorney for Debtor(s)
610 S. Third St.
Columbus, OH 43206
(614) 228-4435
(614) 228-3882 fax

MEMORANDUM IN SUPPORT

Plaintiff filed this adversary action to have this Court determine that the wholly unsecured second mortgage held by US Bank Home Mortgage on her residence may be modified, and treated in this Plan as unsecured, and then cancelled following the Debtor's receipt of a Chapter 13 discharge. Plaintiff asserts that the second mortgage is wholly unsecured as to the real property according to Title 11, Chapter 5, Subchapter I, Section 506(a). Plaintiff also asserts that modifications to rights of holders of secured claims to Title 11, Chapter 13, Subchapter II, Section 1322(b)(2) apply to the herein debt.

The Defendant, US Bank Home Mortgage, was served with summons and a copy of the Complaint. No responsive pleading has been filed and Defendant has, therefore, admitted by default the truth of the allegations set forth in the Complaint which establish that US Bank Home Mortgage's second mortgage is wholly unsecured and may be modified and then cancelled following the Debtor's receipt of a Chapter 13 discharge. Plaintiff is entitled to judgment as on default.

CONCLUSION

The Defendant, US Bank Home Mortgage, has been duly served with summons and a copy of the Complaint and no answer or other response has been filed. Plaintiff, Denise M West White, requests a judgment of the Court finding that the wholly unsecured second mortgage held by US Bank Home Mortgage on her residence may be modified, and treated in this Plan as unsecured, and then cancelled following the Debtor's receipt of a Chapter 13 discharge.

Dated: May 4, 2011

Respectfully submitted,

/s/ Thomas M .Fesenmyer
Thomas M. Fesenmyer, (0073901)
Attorney for Debtor(s)
610 S. Third St.
Columbus, OH 43206
(614) 228-4435
(614) 228-3882 fax

NOTICE AND CERTIFICATE OF SERVICE

The undersigned will present to the Court a proposed order granting the relief sought unless, within twenty-one (21) days after this date, a written memorandum in opposition, and request for a hearing on such opposition, is filed with the Court and served on the undersigned. The undersigned certifies that a copy of the foregoing Motion was served, pursuant to Local Bankruptcy Rules ("LBR") 9013-3(b) and 3015-2(b) this 4th day of May, 2011, to the following:

Chapter 13 Trustee:

Frank M. Pees
Chapter 13 Trustee
130 E. Wilson Bridge Rd, Suite 200
Worthington, OH 43085
(Electronic Service)

Office of the U.S. Trustee:

170 N. High St., #200
Columbus, OH 43215
(Electronic Service)

Debtor(s):

Denise M West White
2849 Ambarwent Road
Reynoldsburg, OH 43068
(Regular U.S. Mail)

Creditor:

US Bank Home Mortgage
4801 Frederica Street
Owensboro, KY 42301
(Regular U.S. Mail)

US Bank Home Mortgage
P.O. Box 20005
Owensboro, KY 42304
(Regular U.S. Mail)

Lerner, Sampson & Rothfuss
P.O. Box 5480
Cincinnati, OH 45201-5480
(Regular U.S. Mail)

Ohio Housing Finance Agency
c/o Ohio Attorney General
Revenue Recovery/Collections Enforcement
150 E. Gay St., 21st Floor
Columbus, OH 43215
(Regular U.S. Mail)

/s/ Thomas M. Fesenmyer
Thomas M. Fesenmyer (0073901)
Attorney for Debtor(s)
610 S. Third St.
Columbus, OH 43206
(614) 228-4435
(614) 228-3882 fax
e-mail:fesenmyer_law@hotmail.com